

**FILED**UNITED STATES DISTRICT COURT  
ALBUQUERQUE, NEW MEXICO

## UNITED STATES DISTRICT COURT

APR 06 2016

for the  
District of New JerseyMATTHEW J. DYKMAN  
CLERKIn the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)Samsung Galaxy Note 3 Cellular Phone seized on  
3/30/16 and currently located at FBI Field Office in  
Albuquerque

Case No. 16 MR 257

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):  
Samsung Galaxy Note 3 Cellular Phone seized on 3/30/16 and currently located at FBI Field Office in Albuquerque

located in the \_\_\_\_\_ District of \_\_\_\_\_ New Mexico \_\_\_\_\_, there is now concealed (identify the person or describe the property to be seized):

evidence of a crime; contraband, fruits of crime, or other items illegally possessed; property designed for use, intended for use, or used in committing a crime that is stored at in the cellular phone used by Christopher Gallegos, a Samsung Galaxy Note 3 Cellular Phone

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
- ☒ contraband, fruits of crime, or other items illegally possessed;
- ☒ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section	Offense Description
Title 18 § 2113	Bank robbery and incidental crimes

The application is based on these facts:

See attached affidavit.

- ☒ Continued on the attached sheet.
- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

James T. G.

Applicant's signature

James Somner FBI Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date: 4/6/2016

City and state: Albuquerque, NM

Laura Fashing

Judge's signature

Laura Fashing, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

IN THE MATTER OF THE SEARCH OF  
Samsung Galaxy Note 3 Cellular Phone

Case No. \_\_\_\_\_

*JS*  
*1/5*  
seized on 3/30/16 and currently  
located at FBI Field Office in  
Albuquerque

**AFFIDAVIT IN SUPPORT OF**

**AN APPLICATION FOR A SEARCH WARRANT**

I, James P. Sumner, being first duly sworn, hereby depose and state as follows:

**INTRODUCTION AND AGENT BACKGROUND**

1. I make this affidavit in support of an application for a search warrant under Rule 41 of the Federal Rules of Criminal Procedure for evidence of a crime; contraband, fruits of crime, or other items illegally possessed; property designed for use, intended for use, or used in committing a crime that is stored in a cellular phone utilized by Christopher Gallegos, a Samsung Galaxy Note 3. The effects to be searched and seized are described in the following paragraphs and in Attachment A.

2. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been since July 2014. I am currently assigned to the Albuquerque Field Office, in the Violent Crimes Program, with a primary duty to investigate individuals involved in violent crimes, including bank robberies. The information set forth in this affidavit has been derived from investigation conducted by your affiant, and/or communicated to me by other sworn law enforcement officers.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that a violation of Title 18 U.S.C. § 2113 has been committed by Martin Huertta. There is probable cause to search for effects that are stored in the vehicle described in Attachment A for evidence of these crimes as further described in Attachment B.

#### **PROBABLE CAUSE**

5. Over the course of 10 months, 16 banks have been robbed by individuals using a similar modus operandi including demanding money from the top and bottom drawers, stating that he (the suspect) has followed one of the tellers home, and demanding that no dye packs be put in with the money. Additionally, the suspect has been described as approximately 6' and approximately 200lbs. The individual has worn what appeared to be similar pieces of clothing to many of the robberies that have included hooded jackets or sweatshirts, sunglasses, gloves, and baseball cap. Once the suspect exits the bank, he enters a vehicle with a driver that sometimes includes another passenger. The banks in total have sustained an estimated loss of \$148,843.52.

6. In one such bank robbery incident occurring on 12/12/2015, at approximately, 12:20 p.m., at the New Mexico Bank and Trust, 3701 4<sup>th</sup> St. NW, Albuquerque, NM, an unknown male entered the bank brandishing a semiautomatic pistol and demanded money. The suspect left in a Nissan Hatchback missing a rear-passenger hubcap. Another incident occurred on 1/8/2016 at approximately 5:44 p.m. at the Bank of America, 6603 4th St NW, Los Ranchos de Albuquerque, NM, a white Nissan Versa, that appeared identical to the Nissan hatchback used on 12/12/2015, parked in the bank parking lot and a male subject exited from the rear passenger door. The subject entered the bank brandishing a semiautomatic hand gun and demanded money from top and bottom drawers. Based on security camera images and witness descriptions the

subject appeared to be wearing a hooded black jacket, a baseball cap which was covered by the hood, sunglasses and gloves.

7. An identified Albuquerque Police Department (APD) source stated that he/she and other individuals provided stolen motor vehicles to Martin Huertta. The source also identified a "Greg" last name unknown at 4905 14<sup>th</sup> St., Albuquerque, NM 87107 as an associate of Huertta. The source has been to the 4905 14<sup>th</sup> St. residence, and observed firearms and large amounts US currency. The source overheard Greg state that Huertta, Greg, and an unknown third male individual had committed numerous bank robberies. According to the source, Greg also stated that Greg and Huertta would case the bank branch that was to be robbed. In early December 2015, the source and other individuals provided Huertta with a stolen white Nissan Versa and had provided Huertta with other stolen motor vehicles on previous occasions. The source overheard Greg state that Greg, Huertta, and the third unknown male individual had used the stolen vehicles provided by the source to Huertta in the past to rob banks and that they intended to use the Versa to commit bank robbery.

8. Database checks indicated address belonged to Greg Miera. Surveillance conducted by law enforcement observed Miera, Huertta and others going to residence to include Christopher Gallegos.

9. Huertta was observed by APD several times driving a white Nissa Sentra with New Mexico license plate number 695 TGZ. During APD's surveillance on 3/29/2016, Miera, Huertta, and Gallegos were observed to be driving around several banks, including pulling into the bank and parking in front of the bank entrance, but not exiting their vehicles. Then, driving at a fast rate exiting the bank. Based on my experience and experience of other law enforcement officers, this appeared to be bank casings.

10. On 3/30/2016, APD was surveilling four individuals, in a blue Subaru Outback with New Mexico plate number 024TAX known to be used by bank robbery suspects by Miera and Huertta. It should be noted that the aforementioned license plate was reported stolen on 3/29/2016; it was registered to Dolores Tafoya as a tan Subaru four-door. At approximately 2:40 p.m., an individual from the Subaru sitting in the left rear passenger seat entered the US Bank, 5620 Wyoming Blvd. NE, Albuquerque, New Mexico. Based on security camera images the subject was wearing a dark colored hoodie, one light colored and one dark colored glove, light colored pants, dark colored cloth covered his face, and dark sunglasses. The individual demanded money and US Bank employees complied.

11. APD followed the individuals from the US Bank to 4905 14<sup>th</sup> St. NW, Albuquerque, NM. The four individuals exited the vehicle and entered the residence. They were later identified by APD as Miera, Huertta, Isaiah Gallegos, and Christian Herrera. APD also observed Miera fleeing from the from the 4905 14<sup>th</sup> St. NW address out of a back window. Miera was holding a white plastic bag similar in appearance to the one used in the robbery on 3/30/2016. Miera tried to jump a fence around the 4905 14<sup>th</sup> St. NW property, but in doing so; Miera dropped the bag which contained US currency into a bush on the other side of the fence in a vacant lot. Miera was then observed fleeing to the following address 1328 San Andreas NW, Albuquerque, New Mexico 87107.

12. Gallegos arrived at the 4905 14<sup>th</sup> St. address while APD was on scene in a white four door Chevrolet Tahoe with New Mexico plates LSF159. The plate was reported stolen and is registered to Holly Fields to a 2006 Chevrolet. Based on my training and experience, bank robbers use stolen license plates and or vehicles to avoid detections. Gallegos was arrested, and his personal effects were secured, including a Samsung Galaxy Note 3.

13. During a subsequent interview with Christopher Gallegos conducted by law enforcement, he stated he “drove for them” on 3/29/2016 including going to a bank, but said he did not remember which bank. Christopher Gallegos’ girlfriend was interviewed. She stated that Gallegos had confessed to her that he robbed a bank approximately two months earlier. He had also confessed to her that he had stolen the Tahoe and used it to case banks before robbing them.

US Bank’s deposits are insured by the Federal Deposit Insurance Corporation and it is therefore a bank as defined under 18 USC § 2113.

14. In my training and experience working bank robbery investigations, I am aware that:

a. Bank robbers often conceal their clothing, robbery notes, disguises, tools and other implements, and the proceeds of their robberies in their residences, on their property, and on their persons.

b. Bank robbers often take, or cause to be taken, photographs of themselves, their associates, offense locations, and property derived from their criminal activities, including with cellular telephones, and that such photographs are often kept in their residences or stored in electronic format on electronic storage media including but not limited to computers and computer thumb drives. Bank robbers can store evidence of the robbery on electronic devices for an extended period of time; even when the user deletes the information, the information can sometimes be recovered by forensics methods.

c. Bank robbers often coordinate and inform confederates or associates of plans or schemes, details of the criminal activity, results of the criminal activity including proceeds, items purchased or to be purchased with the proceeds, including but not limited to

sending text messages, emails, or internet chat platforms using cellular telephones or computers that are often kept in their residences or persons.

d. Bank robbers often commit criminal activity to satisfy an outstanding monetary debt. Records, ledgers, notes, receipts, and electronic records including but not limited to text messages and emails, relating to the debt and satisfying the debt are commonly maintained at their property.

e. Bank robbers can attempt to legitimize the proceeds from their criminal activity. They can accomplish this by using services of foreign and domestic banks and various financial institutions, and real estate brokers. Books and papers relating to such efforts, including but not limited to, cashier checks, money orders, telegrams, letters of credit and ledgers, are maintained in the residences and on property of those involved in criminal activity.

### **CONCLUSION**

15. I submit that this affidavit supports probable cause for a warrant to search the cellular phone described in Attachment A and seize the items described in Attachment B.

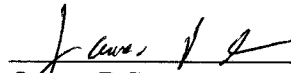
### **AUTHORIZATION REQUEST**

16. Based on the foregoing, I request that the Court issue the proposed search and seizure warrant, pursuant to the Federal Rule of Criminal Procedure 41, to allow the search and seizure of evidence of a crime stored in Christopher Gallegos's Samsung Galaxy Note 3.

17. Assistant United States Attorney Paul Mysliwec has reviewed and approved this affidavit for a search and seizure warrant.

18. I swear that this information is true and correct to the best of my knowledge.

Respectfully submitted,

  
\_\_\_\_\_  
James P Sumner  
Special Agent  
Federal Bureau of Investigation

Subscribed and sworn to before me on 4/6, 2016

  
\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE



**ATTACHMENT A**

**Property to Be Searched**

This warrant applies items listed in Attachment B that were used or obtained during a commission of a felony that is stored in a Samsung Galaxy 3 Note.

**ATTACHMENT B**

**Particular Things to be Seized**

**I. Items to be Searched and Seized by the Government**

The following items, records, documents, files or materials, in whatever form are to be seized and searched for the evidence, contraband, fruits of a crime, other items illegally possessed, and property intended for use or used in committing a violation of Title 18 U.S.C. § 2113, bank robbery to include, ~~but not limited to~~: *ff jps*

1. Photographs of any bank branch and/or proceeds from the bank robbery.
2. Bank brochures stored on cellular phone.
3. Maps or items depicting the locations of banks and routes to and from banks.
4. Evidence of recent purchases and payments, *since 12/12/2015 ff jps* including but not limited to receipts, payment stubs, invoices and money orders.
5. Text messages or emails relating to banks or bank robbery plans including, ~~but not limited to~~ *ff jps* the use, disposition, and or concealment of the proceeds from the bank robbery.
6. Text messages or emails with co-conspirators.
7. Any writing or written recordings or communications regarding any bank robbery, planning for any bank robbery, and or the use, disposition, and or concealment of the proceeds from any bank robbery.
8. Contact information of co-conspirators.
9. Communications with co-conspirators.
10. Photographs of co-conspirators.